COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

OFFICE CORRESPONDENCE

DATE:
April 15, 1991
FILE NO.
090-20423-2599-054

FROM: PAUL MYRON, CHIEF
DETECTIVE DIVISION

TO: SHERMAN BLOCK
SHERIFF

SUBJECT: LETTER OF OPINION ON DEPUTY INVOLVED SHOOTING

A Letter of Opinion was received from the District Attorney's Office regarding the case involving Deputies Curtis Golden, #[redacted], and Eric Hubner, #[redacted].

STATION: Lynwood

DATE OF SHOOTING: December 28, 1990

SUSPECT: SANCHEZ, Daniel MH/24

Deputies Golden and Hubner shot the suspect when he exited a stolen vehicle and turned toward the deputies with a handgun. The suspect sustained a minor wound.

DISTRICT ATTORNEY'S OPINION

"California law permits the use of deadly force in one's self-defense or in the defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he actually and reasonably believes that he was in imminent danger of great bodily injury or death.

In determining whether Deputies Golden and Hubner's conduct was appropriate, we are also guided by principles set forth by the California Court of Appeals. Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent.

☐ SHERIFF	☐ CHIEF - F.O.R. II	☐ CHIEF DETECTIVES	☐ CAPT HOMICIDE
☐ UNDERSHERIFF	☐ CHIEF - F.O.R. III	☐ CDR. DETECTIVES	☐ CAPT. NARCOTICS
☐ ASSISTANT SHERIFF	☐ CHIEF - TECH. SERV.	☐ CAPT. CENTRAL INVEST.	☐ INFORMATION BUREAU
☐ CHIEF - ADMIN. DIV.	☐ CHIEF - COURT SERVS. DIV.	☐ CAPT. JUV. INVEST.	☐ CONTRACT LAW
☐ CHIEF - CUSTODY DIV.	☐ COMMANDER -	☐ CAPT. COMM. CRIMES	☐ PSYCHOLOGICAL SERVICES
☐ CHIEF - F.O.R. I	☐ CAPTAIN -	☐ CAPT. VICE	☐

SH-AD-539 (Rev. 3-87)

In our evaluation the actions of Deputies Golden and Hubner were reasonable under the aforementioned circumstances. Accordingly, we will take no further action and our file is closed."



OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF LOS ANGELES
SPECIAL INVESTIGATIONS DIVISION
CRIMINAL COURTS BUILDING
210 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-3275

IRA REINER, DISTRICT ATTORNEY

(213) 893-0804

April 1, 1991

Captain Kenneth Smith
Homicide Bureau
211 W. Temple Street
Los Angeles, California 90012

Dear Captain Smith:

In re: CASE NO. 100-6962, SID NO. 90-0601
LOS ANGELES SHERIFF'S FILE NO. 090-20423-2599-054

The Special Investigations Division of the Los Angeles County District Attorney's Office has completed its investigation of the January 28, 1990, non-fatal shooting of Daniel Sanchez by Los Angeles Sheriff's Department Deputies Curtis Golden and Eric Hubner. Our Investigation into this matter included a response to the scene by the undersigned and District Attorney Senior Investigator [redacted], a review of the eighty-six-page Los Angeles Sheriff's Department Investigative Report, and an interview conducted by this office of civilian witness [redacted].

FACTUAL BACKGROUND

On December 28, 1990, at approximately 2:00 p.m., Los Angeles Sheriff's Department Deputies Curtis Golden and Eric Hubner were briefed on an armed robbery that occurred the preceding evening in the City of Downey. Following this robbery the suspects fired shots at pursuing Downey Police Officers. Two of the outstanding suspects involved in this incident were reported possibly to be driving a brown, 1964 Chevrolet Impala, with personalized California license plate "[redacted]," that had been stolen shortly after the incident within a few blocks of the abandoned get away car.

Approximately one-hour-and-fifteen-minutes after receiving this information, Deputies Golden and Hubner were patrolling southbound on Alameda Street near 13th Street when Deputy Golden observed a brown Chevrolet Impala with three occupants proceeding north on Alameda Street. Deputy Golden made a U-turn and observed the vehicle turn onto Oaks Street. When the deputies caught up to the vehicle at Oaks and

Santa Fe Streets, they observed the vehicle's license plate, "[redacted]" Deputy Golden advised other Lynwood Station units of the situation as he and his partner continued to follow the vehicle. The vehicle slowed and turned into a driveway at [redacted] East Oaks Street. The vehicle slowed to nearly a stop when Deputy Golden yelled, "Put your hands up, put your hands up." Suddenly, the vehicle accelerated rapidly up the driveway. The vehicle lightly brushed a pickup truck that was parked midway in the driveway and continued forward until it struck the wall of a residence at the end of the driveway. By this time the deputies had exited their patrol car and were proceeding up the driveway yelling at the occupants of the vehicle to put up their hands.

As the right-front and rear-seat passengers complied by placing their hands up inside the vehicle, the driver's door swung open and the driver, Daniel Sanchez, jumped out. The deputies, who were located to the rear of the pickup truck, observed Mr. Sanchez proceed straight out from the vehicle. Mr. Sanchez then turned his upper body toward the deputies, whereupon each deputy observed Mr. Sanchez to be holding a small, black handgun in his right hand pointed in their direction. Believing that Mr. Sanchez was preparing to shoot, each deputy fired one round from his department-approved nine-millimeter handgun at Mr. Sanchez. The deputies were unsure if Mr. Sanchez was struck as he bolted through an opening between two houses, jumped a fence and fled. A search of the area was conducted and while no handgun was recovered, Mr. Sanchez was found hiding in a garage some distance from the shooting. Mr. Sanchez had sustained a gunshot wound to his right arm that had entered the inside of his right forearm by the elbow and exited on the outside of his arm just above the wrist.

Interviewed shortly after the incident, the two individuals in the vehicle with Mr. Sanchez, [redacted] and [redacted], stated that they were driving to the incident location to visit a friend. Neither could explain why Mr. Sanchez accelerated in the driveway or why he fled. Neither witness saw Mr. Sanchez with a handgun during the course of this incident. Mr. [redacted] added that after the shots were fired he heard one of the deputies shout, "I think he's hit. He has a gun. He's armed."

Following this incident, separate photographic line-ups that included Sanchez, [redacted] and [redacted] were prepared and shown to witnesses of the aforementioned armed robbery and attack. Two witnesses identified Mr. [redacted] as being one of the perpetrators in that incident.

Mr. Sanchez was also interviewed. He stated that when the vehicle he was driving came to a complete stop he heard someone yell, "Get out of the car." He opened the door, got out of the car, started turning toward the deputy and raising his arms when he was shot. He then fled. Mr. Sanchez denied having a gun, accelerating up the driveway, and

hitting the wall at the end of the driveway. Mr. Sanchez also claimed that he borrowed the vehicle from a friend whose name he would not provide. He provided a false telephone number of an alleged common friend.

Others in the area who heard or saw a portion of this incident were unable to determine whether or not Mr. Sanchez displayed a handgun when he was shot.

ANALYSIS

Based upon the available evidence, it is clear that at the time Deputies Golden and Hubner shot and wounded Mr. Sanchez, they were in fear for their individual safety as well as the safety of each other. Mr. Sanchez had refused to comply with their commands to put up his hands. Instead he exited the vehicle, bolted, and turned toward the deputies with what appeared to be a handgun. There was also a substantial possibility that Mr. Sanchez had been involved in an armed robbery the preceding evening in which gunshots were fired at police officers. At the very least, Mr. Sanchez was in possession of a recently stolen vehicle. Approaching such an individual, under the circumstances presented to the deputies in this incident, is a situation frequently fraught with danger.

California law permits the use of deadly force in one's self-defense or in the defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he actually and reasonably believes that he was in imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal.App.3d 731.

In determining whether Deputies Golden and Hubner's conduct was appropriate, we are also guided by principles set forth by the California Court of Appeals in People v. Toledo (1948) 85 Cal.App.2d 577. Actual danger is not necessary to justify the use of deadly force in self defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent.

In our evaluation the actions of Deputies Golden and Hubner were reasonable under the aforementioned circumstances. Accordingly, we will take no further action and our file is closed.

Very truly yours,

IRA REINER
District Attorney

CURT LIVESAY
Assistant District Attorney

By Thomas R. Wenke

THOMAS R. WENKE
Deputy District Attorney

ae

c: Deputy Curtis Golden
Deputy Eric Hubner